IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Om Prakash. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 965/2006
against the order dated 4-4-2006 passed
by the Sessions Judge, Bikaner, in Criminal
Revision No. 175/2005.

...

Date of Order: September 14, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Vineet Jain, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

This criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) is directed against the order dated 4.4.2006 passed by the Sessions Judge, Bikaner (for short, "the Revisional Court" hereinafter) in Criminal Revision Petition No. 175/2005, whereby the revision petitions filed by the petitioner against the orders dated 25-7-2005 passed by the Judicial Magistrate, Loonkaransar, district Bikaner (for short, "the trial Court" hereinafter) in Criminal Cases No. 255/2003 was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders impugned passed by the trial

Court as well as the Revisional Court.

By the order dated 25-7-2005, the trial Court framed charges for the offences under Sections 420, 467, 468 and 471 IPC against the petitioner. The order of the trial Court framing the charges came to be challenged by the petitioner before the Revisional Court. The Revisional Court, vide impugned order dated 4-4-2006 dismissed the revision petition. Hence this criminal miscellaneous petition.

It is contended by the learned counsel for the petitioner that both the Courts below failed to consider the fact that the person claiming subsidy from the Government for transportation of fodder, the Depot Manager was required to obtain certain documents from the driver of the vehicle bringing the fodder, namely (i) the registration certificate of the vehicle, (ii) the driving licence, (iii) the receipt issued by the Dharmkanta from where the fodder was loaded, (iv) the certificate issued by the Dharamkanta authorized by the Government where a Government employee was posted, and (v) the certificate regarding receipt of the vehicle in the depot issued by the Sarpanch/Gram Sewak etc. In the instant case, the petitioner filed the bills along with the requisite documents as stated above and, therefore, it cannot be said that the petitioner has forged any document. Learned counsel for the petitioner has taken to the record and the statements of various witnesses recorded by

the police during investigation, including the statement of one Damodar Pareek.

On careful perusal of the statements of the witnesses, it appears that the trial Court has not properly considered the statements of the witnesses, as on careful perusal of the order of the trial Court, it nowhere appears that the trial Court has gone through the statements of various witnesses. In the circumstances, therefore, it would be appropriate requiring the trial Court to pass a fresh order giving reasons, may be in brief, for its conclusion.

In the result, the criminal miscellaneous petition is allowed. The impugned orders dated 25-7-2005 passed by the trial Court, as also the order dated 4-4-2006 passed by the Revisional Court, are set aside. In the peculiar facts and circumstances of the case, the matter is remanded to the trial Court to pass a fresh and reasoned order by giving the reasonings, may be in brief, for its conclusion after giving opportunity of hearing to the petitioner.

(H.R. PANWAR), J.

mcs